

Internal Revenue Service

Department of the Treasury

District
Director

Date: JAN 31 1996

Employer Identification Number:

Contact Person:

Contact Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

You incorporated as a non-profit corporation in the State of [REDACTED] on [REDACTED]. Your original purposes indicated you were organized to manufacture, sell and lease medical and mobility aid equipment. A further attachment contained acceptable section 501(c)(3) language including purpose. You amended to delete language regarding manufacturing, selling and leasing of equipment.

You indicated that your activities were (a) research to solve physical and mental problems of handicapped people by evaluating devices on the market, (b) research and development of new improved methods and techniques of diagnosis and curing sicknesses utilizing high-tech equipment, and (c) religious education as part of medical treatment.

Your board of directors consists of two family members ([REDACTED] [REDACTED]) who also own a for-profit consulting engineering firm - [REDACTED] (hereafter referred to as [REDACTED]). Both board members have engineering degrees and extensive experience in engineering, which has resulted in their development of inventions and obtaining of patents.

Your proposed budgets show \$[REDACTED] per year with expenses consisting of direct labor, occupancy, and fund-raising. You indicated that you came into existence to apply for grants since [REDACTED] had applied for some grants and been told the grants would be provided to not-for-profit entities only. [REDACTED] had applied for a \$[REDACTED] grant.

You claim to be a research organization operated in conjunction with a hospital. Information you provided confirmed an agreement between the medical offices of [REDACTED] and [REDACTED]. It also showed that [REDACTED] is medical director at the hospital with which you claim affiliation.

Your research will be conducted by [REDACTED] and his associates, [REDACTED], [REDACTED], and their associates.

You provided a pamphlet that indicates your mission is to manufacture existing medical devices at affordable prices for people with disabilities, research and development of new medical devices, and to help innocent people and people with

disabilities, including, but not limited to creating new jobs for them. You further stated that you were in the process of completion and preparing for production the stand/walker "██████████" developed by █████.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations, *** fund, or foundation, organized and operated exclusively for religious, charitable, scientific, *** literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1(d)(5)(ii) of the regulations states:

"Scientific research does not include activities of a type ordinarily carried on as an incident to commercial or industrial operations, as, for example, the ordinary testing or inspection of materials or products or the designing or construction of equipment, buildings, etc."

Section 1.501(c)(3)-1(d)(5)(iv) of the regulations state, in part:

An organization will not be regarded as organized and operated for the purpose of carrying on scientific research in the public interest and, consequently, will not qualify under section 501(c)(3) as a "scientific" organization, if:

(a) Such organization will perform research only for persons which are (directly or indirectly) its creators and which are not described in section 501(c)(3), or..."

Revenue Ruling 68-373, 1968-2 C.B. 206, indicates that an organization engaging in clinical testing of drugs for pharmaceutical companies is not exempt. The testing enables the companies to comply with Food and Drug Administration marketing requirements. The organization is performing a service for the manufacturers. Therefore, the testing serves the private interest of the manufacturers rather than the public interest.

You have operated for over █████ years and indicate no financial data or minutes to date. Your only attempt at obtaining funding was for a project being done by █████. As evidence of what you had done to date, you provided a report which was a review of published medical papers and promotion for the stand walker developed by █████. You indicated that during those two years, you did the necessary work to get Federal Food and Drug Administration approval for the Stand/walker. Thus, you seem similar to Rev. Rul. 68-373 in regard to getting FDA approval. You mentioned product testing, manufacturing, advancement of religion and providing jobs for handicapped but have provided no detail or budgets that would substantiate such activities.

You have failed to show that you are not merely performing engineering services

for purposes of testing and improving products of [REDACTED] and other manufactures, thus, promoting their private benefit. You have failed to show that you will do research for anyone other than your founders since you show no revenue from government or other organizations that sponsor research projects, and your primary activity to date has been looking at a product developed by [REDACTED].

You claimed to be doing research in conjunction with a hospital but failed to provide any evidence of that hospital's involvement or even knowledge of your research. A letter you provided was evidencing a relationship between the medical practice of your board member and [REDACTED].

Under existing procedures, the Internal Revenue Service will recognize exempt status only if operations or proposed operations are described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere statement of purpose or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including standards, criteria, procedures, or other means adopted or planned for carrying out the activities; the anticipated sources of receipts; and the nature of contemplated expenditures. A record of actual operations may be required before a ruling or determination letter will be issued. The position of the Service in this matter is set forth in section 5 of Revenue Procedure 90-27.

Accordingly, since the information submitted does not clearly show that you will be operated exclusively for section 501(c)(3) purposes, a determination of your status under section 501(c)(3) of the Code cannot be made at this time.

Accordingly, you are not exempt under section 501(c)(3) of the Code and should file Forms 1120. Contributions to you are not tax deductible by donors.

You may, if you desire, resubmit an application for exemption after you have actually operated in furtherance of your stated purposes to an extent to clearly show your character and method of operation. In order to adequately demonstrate that you have, or have not, operated in a manner consistent with exemption under section 501(c)(3) of the Code, you should maintain records such as transcripts, brochures, programs, and the like, and submit sufficient records with the application to permit a conclusion as to exempt status at that time.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia

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[REDACTED]
determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 5104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 5018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]

[REDACTED]
District Director

Enclosures:

Publication 892
Form 5018